THE HON'BLE MR JUSTICE S.ANANDA REDDY

Writ Petition Nos.18522 and 18526 of 2005

22-08-2005

Between:

Y.N.O.(CUM) High School and another

... PETITONERS

AND

1. The Government of Andhra Pradesh, rep. By its Secretary, School Education Department, Secretariat, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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Writ Petition Nos.18522 and 18526 of 2005

COMMON ORDER:

These two writ petitions are filed by the same Educational Institution aggrieved by the impugned order passed by the third respondent, dated 17.05.2005, by which, the petitioner was informed that the proposals sent for filling up aided posts could not be approved in view of the ban imposed by the Government vide Memo dated 20.10.2004.

According to the petitioner-Institution, the posts fell vacant long before the ban was imposed. It is stated that as there are vacant posts, the petitioner-Institution made requisition seeking approval of the competent authority for filling up one aided post of Physical Education Teacher and the same was approved by proceedings dated 28.05.2003 and, with reference to four other posts, by proceedings dated 30.08.2004. It is stated that pursuant to the approvals, Selection Committee was constituted where; even the departmental nominee had also participated. After the selections, the names of the selected candidates were forwarded for approval. Though the matter has been pending since long time, in view of the memo that is said to have been issued by the Government dated 20.10.2004 banning the filling up of aided posts, the third respondent passed the impugned order.

The learned counsel for the petitioner contended that as the ban was imposed long after the posts fell vacant where the approvals were granted and even the selections were also completed, the impugned order is illegal and unsustainable.

The learned Government Pleader for School Education appearing for

the respondents, however, sought to sustain the impugned order in view of the subsequent ban imposed.

Heard both sides and considered the material on record.

This Court has already taken the view that the memo issued by the Government on 20.10.2004 has no application with reference to the vacant posts where approvals were granted prior to 20.10.2004.

Admittedly, in the present case, all the posts, which are sought to be filled up, fell vacant long before the said date of ban and as per the approval granted by the competent authority, selections were also completed. Therefore, the impugned order passed by the third respondent is illegal and unsustainable.

Accordingly, the impugned order is set aside. The third respondent is directed to consider the proposals sent by the petitioner-Institution for approval, on merit, and pass appropriate orders in accordance with law, expeditiously, preferably within a period six weeks from the date of receipt of a copy of this order.

The writ petitions are accordingly disposed of. No costs.

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22.08.2005

Note: Issue CC in three days.

(b/o)

VGB